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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.859 of 2016

1.Selvi  
2.Muniyan

.. Appellants/Petitioners

Vs.

1.Munirathinam

2.M/s.United India Insurance Co. Ltd.,  
Sillingi Buildings,  
No.134, 40-42 Greams Road,  
Chennai 600 006.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 25.07.2014, made in M.C.O.P.No.2747 of 2013, on the file of the Chief Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

For Appellants : Ms.Ramya V. Rao

For R2 : Mr.J.Chandran

#### J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellants-claimants, seeking enhancement of the compensation granted by the award dated 25.07.2014, made in M.C.O.P.No.2747 of 2013, on the file of the Chief Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

2.The appellants-claimants filed M.C.O.P.No.2747 of 2013, on the file of the Chief Small Causes Court, (Motor Accident Claims Tribunal), Chennai, claiming a sum of Rs.10,00,000/- as compensation for the death of one Tamilarasu, who died in the accident that took place on 19.12.2012.



3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent riding by the rider of the motorcycle belonging to the 1<sup>st</sup> respondent and directed the 2<sup>nd</sup> respondent-Insurance Company to pay a sum of Rs.3,40,000/- as compensation to the appellants at the first instance and recover the same from the 1<sup>st</sup> respondent.

4.Not being satisfied with the amounts granted by the Tribunal in the award dated 25.07.2014, made in M.C.O.P.No.2747 of 2013, the appellants have come out with the present appeal.

5.The learned counsel appearing for the appellants contended that the deceased was a 16 year old student. The Tribunal ought to have fixed a sum of Rs.4,500/- per month as the notional income of the deceased. The Tribunal failed to grant future prospects to the appellants. The Tribunal ought to have applied the multiplier '18' and fixed Rs.6,000/- as the notional income of the deceased including future prospects and awarded compensation. The amounts granted by the Tribunal under other heads are meagre and prayed for enhancement of the compensation.

6.Per contra, the learned counsel appearing for the 2<sup>nd</sup> respondent-Insurance Company contended that the deceased was aged 16 years at the time of accident and he was XI standard student and a non-earning member. The Tribunal following the judgment of the Hon'ble Apex Court, has granted compensation towards pecuniary loss, which is not meagre. The appellants have not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

7.Heard the learned counsel appearing for the appellants as well as the 2<sup>nd</sup> respondent and perused the materials available on record.

8.From the materials on record, it is seen that the Tribunal has fixed the notional income of the deceased at Rs.15,000/- per annum as per II Schedule of the Motor Vehicles Act. The II Schedule of the Motor Vehicles Act relates to only the minors up to aged 15 years. In the present case, the deceased minor was aged 16 years at the time of accident and amount fixed by the Tribunal as per II Schedule for minors up to age 15 years is not applicable to the facts of the present case. The accident has occurred on 19.12.2012. According to the appellants, the deceased was studying XI standard. After completion of his studies, he would have got decent job and would have received good income. Considering the same, the notional income of the deceased is fixed at Rs.5,000/- per month including future prospects. Hence, applying the multiplier '18' and deducting 50% towards personal expenses of the deceased, the amount granted



towards pecuniary loss is modified to Rs.5,40,000/- [Rs.5,000/- x 12 x 18 x ½]. Since the monthly income of the deceased is fixed at Rs.5,000/- including future prospects, the compensation granted by the Tribunal under the head, 'loss of future prospects' is set aside. The Tribunal has granted a meagre sum towards loss of love and affection. The appellants are entitled to Rs.40,000/- each towards loss of love and affection. The Tribunal failed to grant any amount towards loss of estate. Hence, a sum of Rs.15,000/- is granted towards the said head. The excessive amount granted by the Tribunal towards funeral expenses is reduced to Rs.15,000/-. The amount granted by the Tribunal towards transportation is just and reasonable and the same is confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

| S.No | Description                | Amount awarded by Tribunal (Rs) | Amount awarded by this Court (Rs) | Award confirmed or enhanced or granted |
|------|----------------------------|---------------------------------|-----------------------------------|----------------------------------------|
| 1.   | Pecuniary loss             | 1,60,000/-                      | 5,40,000/-                        | enhanced                               |
| 2.   | Funeral expenses           | 25,000/-                        | 15,000/-                          | reduced                                |
| 3.   | Loss of love and affection | 50,000/-                        | 80,000/-                          | enhanced                               |
| 4.   | Loss of Future prospects   | 1,00,000/-                      | -                                 | set aside                              |
| 5.   | Transportation             | 5,000/-                         | 5,000/-                           | confirmed                              |
| 6.   | Loss of estate             | -                               | 15,000/-                          | granted                                |
|      | Total                      | 3,40,000/-                      | 6,55,000/-                        | Enhanced by Rs.3,15,000/-              |

9. In the result, the appeal is partly allowed and amount granted by the Tribunal at Rs.3,40,000/- is enhanced to Rs.6,55,000/- along with interest and costs. The appellants/claimants are directed to pay the necessary Court fee, if any, for the enhanced award amount now determined by this Court. The 2<sup>nd</sup> respondent is directed to deposit the enhanced award amount along with interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.2747 of 2013 at the first instance and recover the same from the 1<sup>st</sup> respondent. On such



deposit, the appellants/claimants are permitted to withdraw their share of the enhanced award amount along with interest and costs, as per the ratio of apportionment fixed by the Tribunal, less the amount already withdrawn if any, by filing necessary application before the Tribunal. No costs.

Sd/-  
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

gsa

To

1.The Chief Small Causes Judge,  
(Motor Accident Claims Tribunal),  
Chennai.

2.The Section Officer,  
V.R Section,  
High Court, Madras.

+1cc to M/s.A.N.Viswanatha Rao, Advocate sr.33828  
+1cc to M/s.J.Chandran, Advocate sr.34921

C.M.A.No.859 of 2016

nr 20/11/2019